

ESTTA Tracking number: **ESTTA454330**

Filing date: **02/01/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Levi Strauss & Co.
Granted to Date of previous extension	02/01/2012
Address	1155 Battery Street San Francisco, CA 94111 UNITED STATES
Attorney information	Marie C. Seibel, Esq. Kilpatrick Townsend & Stockton LLP 2 Embarcadero Center, 8th Floor San Francisco, CA 94111 UNITED STATES mseibel@kilpatrickstockton.com, jtipton@kilpatrickstockton.com Phone:415-576-0200

Applicant Information

Application No	85193746	Publication date	10/04/2011
Opposition Filing Date	02/01/2012	Opposition Period Ends	02/01/2012
Applicant	Jackson, DeQuentin L 161 Northoaks Dr. Winston-Salem, NC 27105 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. First Use: 2011/08/01 First Use In Commerce: 2011/08/01
All goods and services in the class are opposed, namely: Clothing, namely, t-shirts and hats

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	1552985	Application Date	10/24/1988
Registration Date	08/22/1989	Foreign Priority Date	NONE
Word Mark	501		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class 025. First use: First Use: 1893/00/00 First Use In Commerce: 1898/00/00 JEANS

Attachments	Notice of Opposition.pdf (8 pages)(252656 bytes)
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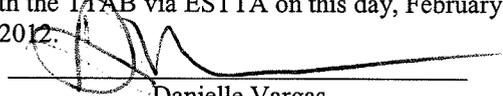
Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Marie C. Seibel/
Name	Marie C. Seibel
Date	02/01/2012

CERTIFICATE OF TRANSMITTAL

I hereby certify that a true copy of the foregoing Notice of Opposition is being filed electronically with the TTAB via ESTTA on this day, February 1, 2012.



Danielle Vargas

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Application No. 85/193,746
Filed: December 8, 2010
Published: October 4, 2011, in the *Official Gazette*
For: **105 CLOTHING (stylized)**

LEVI STRAUSS & CO.,

Opposer,

vs.

DEQUENTIN L. JACKSON,

Applicant.

Opposition No. _____

NOTICE OF OPPOSITION

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, Virginia 22313-1451

Sir or Madam:

Levi Strauss & Co. (“Opposer” or “LS&Co.”) believes it will be damaged by the registration of the 105 CLOTHING (stylized) mark (hereinafter, the “105 CLOTHING Mark”) covered by Application Serial No. 85/193,746, filed on December 8, 2010, by DeQuentin L. Jackson, and hereby opposes such registration.

LS&Co. is a Delaware corporation with its headquarters and principal place of business at Levi’s Plaza, 1155 Battery Street, San Francisco, California 94111. Applicant is, upon information and belief, a individual with the mailing address 161 Northoaks Dr., Winston-Salem,

Notice of Opposition
Application No. 85/193,746

North Carolina 27105. This Notice of Opposition has been timely filed. As grounds of opposition, LS&Co. alleges as follows:

1. As illustrated in the Official Gazette dated October 4, 2011, Applicant seeks to register the 105 CLOTHING Mark that is the subject of Application Serial No. 85/193,746 in International Class 25 for clothing, namely, t-shirts and hats.

2. LS&Co. is the owner of the distinctive 501® Trademark, as reflected in the following registration issued on the Principal Register, which presently is in full force and effect:

<u>Trademark</u>	<u>Registration No.</u>	<u>Registration Date</u>	<u>First Use Date</u>
501	1,552,985	August 22, 1989	December 31, 1969

The above registration is incontestable under 15 U.S.C. § 1065, as shown by the records of the United States Patent and Trademark Office. A true and correct copy of this Registration is attached as Exhibit A. Since at least as early as the first use date listed above, LS&Co. continuously has used its 501® Trademark on jeans and pants.

3. LS&Co.’s 501® Trademark is undisputedly prior to the 105 CLOTHING Mark proposed by Applicant. LS&Co.’s first use long precedes the filing date of Applicant’s application for the 105 CLOTHING Mark and Applicant’s claimed August 1, 2011 date of first use.

4. Since adoption and first use of LS&Co.’s 501® Trademark, LS&Co. continuously has marketed and presently is marketing its goods nationwide. LS&Co.’s goods are identified as originating from LS&Co. through the display and advertising -- by LS&Co. and retailers selling its products -- of LS&Co.’s 501® Trademark. LS&Co. has expended and continues to expend

substantial time, money, and effort promoting its 501® Trademark to identify LS&Co. as the source of the goods displaying the mark. As a result, the public has come to recognize LS&Co. as the source of goods displaying the 501® Trademark.

5. By virtue of its long use and promotion of the 501® Trademark and the high quality of its goods, LS&Co. has gained a valuable reputation for its 501® Trademark and has developed exceedingly valuable goodwill with respect to this mark.

6. Registration of the 105 CLOTHING Mark -- which merely transposes the “5” and “1” in Opposer’s 501® Trademark and appends the generic term “clothing” -- will lead the public to conclude, incorrectly, that Applicant is or has been, and Applicant’s goods provided under the mark are or have been, authorized, sponsored, or licensed by LS&Co. Issuance of any registration to Applicant for the 105 CLOTHING Mark is therefore contrary to the provisions of 15 U.S.C. § 1052(a) and will result in damage to LS&Co. and the public.

7. Applicant’s 105 CLOTHING Mark is deceptively similar to LS&Co.’s 501® Trademark so as to cause confusion, or to cause mistake or to deceive the public as to the origin of Applicant’s goods offered under that trademark. Therefore, registration of Applicant’s mark is prohibited by 15 U.S.C. § 1052(d).

8. Because the 105 CLOTHING Mark is not associated with LS&Co. and creates the same, or essentially the same, commercial impression as LS&Co.’s 501® Trademark, registration of Applicant’s mark is likely to cause confusion, or to cause mistake or to deceive the public as to the source of Applicant’s goods, to the harm and damage of LS&Co. and the public. Therefore, registration of Applicant’s mark is prohibited by 15 U.S.C. § 1052(d).

9. LS&Co.'s 501® Trademark is distinctive and famous within the meaning of 15 U.S.C. § 1125(c), and was famous before Applicant filed the Application at issue and before Applicant allegedly began use of the 105 CLOTHING Mark. Applicant's mark has or is likely to cause dilution of the distinctive quality of LS&Co.'s 501® Trademark, in violation of 15 U.S.C. § 1125(c), to the harm and damage of LS&Co. and the public. Therefore, registration of Applicant's 105 CLOTHING Mark may be refused under 15 U.S.C. §§ 1052 and 1063(a).

10. Registration of Applicant's mark would constitute prima facie evidence of the validity of such registration, Applicant's ownership of the mark, and Applicant's exclusive right to use the mark pursuant to the provisions of 15 U.S.C. § 1057(b). Such registration would be a source of damage and injury to LS&Co. and the public, and would be contrary to the principles of registration set out in 15 U.S.C. §§ 1051 *et seq.*

WHEREFORE, LS&Co. prays that this Opposition be sustained, and that registration to Applicant for the 105 CLOTHING covered by Application Serial No. 85/193,746 be denied.

Please direct all notices, pleadings and process regarding this matter to:

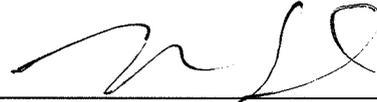
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Respectfully submitted,

KILPATRICK TOWNSEND & STOCKTON LLP

Dated: February 1, 2012

By: _____



Marie C. Seibel
Attorneys for Opposer
Levi Strauss & Co.

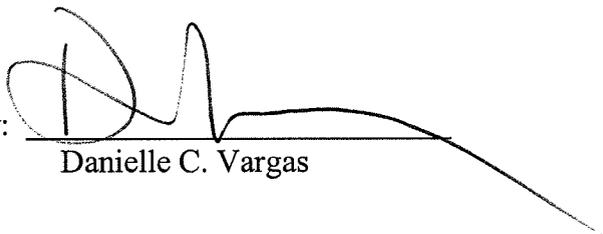
Kilpatrick Townsend & Stockton LLP
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San Francisco, CA 94111-3834
Telephone: (415) 576-0200
Facsimile: (415) 576-0300

CERTIFICATE OF SERVICE

I hereby certify that on February 1, 2012, I served the foregoing **NOTICE OF OPPOSITION** on the parties in said action by depositing a true copy thereof with the United States Postal Service as first class mail, postage prepaid, at San Francisco, California, enclosed in a sealed envelope addressed as follows:

Gilbert J. Andia, Jr., Esq.
Higgins Benjamin Eagles & Adams, PLLC
101 W Friendly Ave, Ste. 500
Greensboro, NC 27401-2521

Dated: February 1, 2012

By: 
Danielle C. Vargas

63955502 v1

Attorney Docket No.: 89070-798188

Notice of Opposition
Application No. 85/193,746

EXHIBIT A

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Corrected

Reg. No. 1,552,985

Registered Aug. 22, 1989

OG Date Apr. 19, 2011

TRADEMARK
PRINCIPAL REGISTER

501

LEVI STRAUSS & CO. (DELAWARE
CORPORATION)
1155 BATTERY STREET
SAN FRANCISCO, CA 94111

FOR: JEANS , IN CLASS 25 (U.S. CLS.
22 AND 39).

FIRST USE 0-0-1893; IN COMMERCE
0-0-1898.

SER. NO. 73-768,165, FILED 10-24-1988.

*In testimony whereof I have hereunto set my hand
and caused the seal of The Patent and Trademark
Office to be affixed on Apr. 19, 2011.*